

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN WARANICA,

Plaintiff,

v.

Civil Case No. 14-11377
Honorable Linda V. Parker

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S
FEBRUARY 17, 2016 REPORT AND RECOMMENDATION AND
DISMISSING COMPLAINT WITHOUT PREJUDICE**

On April 3, 2014, Plaintiff filed this lawsuit challenging Defendant's final decision denying Plaintiff's application for disability and disability insurance benefits and supplemental security income under the Social Security Act. On April 4, 2014, the matter was referred to Magistrate Judge Mona K. Majzoub for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation ("R&R") on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 2.) The matter subsequently was transferred to a three-judge panel for consideration of a global stay and inquiry into Plaintiff's counsel's representation pursuant to Administrative Order 15-AO-033. (ECF No. 15.)

The matter was transferred back to the undersigned on October 19, 2015, pursuant to Administrative Order 15-AO-045. On November 30, 2015, this Court entered an order lifting the stay; and on January 12, 2016, Magistrate Judge Majzoub set a scheduling order for the parties to file summary judgment motions. (ECF Nos. 16, 18.) Plaintiff's motion was due on or before February 12, 2016. (ECF No. 18.) Magistrate Judge Majzoub warned Plaintiff that a federal court may sua sponte dismiss a claim for failure to prosecute or comply with an order pursuant to Federal Rule of Civil Procedure 41(b) and Eastern District of Michigan Local Rule 41.2. (*Id.* at Pg ID 725.)

Plaintiff has not filed a summary judgment motion and the deadline for doing so has passed. Therefore, on February 17, 2016, Magistrate Judge Majzoub entered an R&R in which she recommends that this Court dismiss Plaintiff's lawsuit without prejudice for failure to prosecute pursuant to Local Rule 41.2. (ECF No. 19.) At the end of the R&R, Magistrate Judge Majzoub advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. (*Id.* at Pg ID 729.) She further specifically advises the parties that "[f]ailure to file specific objections constitutes a waiver of any further right to appeal." (*Id.*) Neither party filed objections to the R&R.

This Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Majzoub. The Court therefore **ADOPTS**

the magistrate judge's February 17, 2016 R&R and is **DISMISSING WITHOUT PREJUDICE** Plaintiff's Complaint in this matter.

SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: March 9, 2016

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, March 9, 2016, by electronic and/or U.S. First Class mail.

s/ Richard Loury
Case Manager